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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/803,978	03/13/2001	Shinichi Takeda	837.1964/JDH	9367

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EXAMINER

HUGHES, DEANDRA M

ART UNIT PAPER NUMBER

3663

DATE MAILED: 05/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/803,978

Applicant(s)

TAKEDA ET AL.

Examiner

Deandra M Hughes

Art Unit

3663

--The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

THE REPLY FILED 28 April 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☒ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☒ Applicant's reply has overcome the following rejection(s): Rejection of claim 10 and 13.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:


Claim(s) allowed: \_\_\_\_\_

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: \_\_\_\_\_

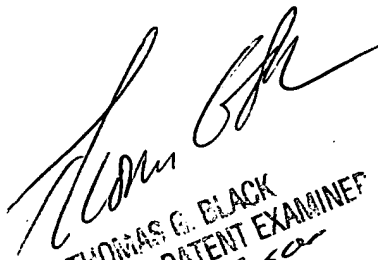
Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☒ The proposed drawing correction filed on 09 December 2002 is a) ☒ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_
10. ☐ Other: \_\_\_\_\_

  
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Continuation of 5. does NOT place the application in condition for allowance because: With regard to the independent claims 1, 7, and 17-26, applicant argues that Hansen does not teach 'controlling the power of input signal light so that a quality measurement of an output signal light is improved to AN OPTIMAL LEVEL' (pg. 4, lines 14-16; emphasis added). This argument is found not convincing because the phrase 'to an optimal level' is relative. In particular, what constitutes optimal? Until the phrase 'optimal level' is specifically defined, ANY level can be considered optimal.

With regard to claims 21-22, applicant argues that Otterbach does not teach or suggest 'changing a power level of a second signal to optimize a measured quality of a fourth signal' (pg. 5, lines 16-18). This argument is found not convincing because inserting an intermediate amplifier before the attenuator would produce a second amplified signal from the first signal, namely the input signal. Further, applicant's argument is unclear in that terminating an optical repeater with an optical amplifier (pg. 5, lines 14-15 of applicant's remarks) would nonetheless transform a first signal (input signal) into a second signal (amplified signal). Merely stating that a repeater is terminated by an optical amplifier does not traverse the rejection. Consequently the argument is found unconvincing.

  
THOMAS G. BLACK  
SUPERVISORY PATENT EXAMINER  
GROUP 3600